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March 14, 2025

By ECF:

Honorable John P. Cronan  
United States District Judge  
Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007

Re: Gregorio Vargas v. United States of America  
24-cv-08766-JPC

Dear Judge Cronan:

We represent Gregorio Vargas in above referenced matter. We oppose the Government's request for leave to file a motion to dismiss the matter. This matter arises out of a motor vehicle accident in which Plaintiff was rearended by USPS truck and seriously injured.

On January 27, 2023, we properly served Form SF-95 on the United States Postal Service and United States Department of Justice in Washington, D.C. We did not include any medical records due to privacy issues.

Since we had not received any response from either party, on December 9, 2024, we commenced the within action. In January 2025, Assistant U.S. Attorney Rachel Kroll called our office and requested that Plaintiff discontinue his action for allegedly not exhausting administrative remedies. I informed Ms. Kroll that we complied with all applicable rules regarding administrative remedies and that we had not received any communication or response from the USPS prior to commencing this action.

Ms. Kroll then forwarded a copy of a letter that was allegedly on sent April 27, 2023 to Hendrick Vandamme, **47 Trinity Place**, 3<sup>rd</sup> Floor, New York, NY 10006. My office has never been located at that address. In fact, 47 Trinity Street houses a small shoe store. Likely due to the incorrect address, we never received the April 23, 2023 letter.

It is Plaintiff's position that Plaintiff did nothing wrong and that the Plaintiff should not be penalized for the Government's failure to properly address its correspondence to our office. Plaintiff should not be required to discontinue and pay another docket fee and service of process of fee, which will amount to approximately \$700, which Plaintiff would not have otherwise have to pay but for the USPS's error.

On February 13, 2025, Plaintiff provided 222 pages of medical records and supporting documents to the USPS in a good faith attempt to resolve this matter. To date, no resolution has occurred. In light of the circumstances, Plaintiff consents to either extend the Government's time to answer until August 15,


2025 or to discontinue the matter without prejudice with leave to reopen the matter by a letter motion pending the USPS response. This would alleviate concerns regarding the double payment of the docket and service fees, which Plaintiff should not be required to pay.

Plaintiff will provide a proposed Order if the Court so directs.

Very truly yours,  
*Hendrick Vandamme*

The parties shall appear before the Court on March 26, 2025, at 3:30 p.m., in Courtroom 12D of 500 Pearl Street, New York, New York 10007.

SO ORDERED  
March 17, 2025  
New York, New York

  
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JOHN P. CRONAN  
United States District Judge